

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

STEVEN BERNSTEIN,

Defendant.

**DECISION AND ORDER**  
08-CR-375S

1. On December 23, 2008, the Defendant entered into a written plea agreement (Docket No. 4) and pled guilty to a One Count Information. (Docket No. 2) charging a violation of Title 18, U.S.C. Section 664 (embezzlement from an employee benefit plan).

2. On December 23, 2008, the Honorable Jeremiah J. McCarthy, United States Magistrate Judge, filed a Report and Recommendation (Docket No. 6) recommending that Defendant's plea of guilty be accepted and the Defendant adjudicated guilty.

3. This Court has not received objections to the Report and Recommendation in accordance with 28 U.S.C. §636(b)(1)(C) and Local Rule 58.2(a)(3).

4. This Court has carefully reviewed *de novo* Judge McCarthy's December 23, 2008, Report and Recommendation, the plea agreement, transcript of the proceeding, and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge McCarthy's Report and Recommendation, and will accept Judge McCarthy's recommendation that Defendant's plea of guilty be accepted and that the Defendant be adjudicated guilty as charged.

IT HEREBY IS ORDERED, that this Court accepts Judge McCarthy's December 23, 2008, Report and Recommendation (Docket No. 6) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the plea of guilty of Defendant Steven A. Bernstein is accepted, and he is now adjudged guilty of Title 18, U.S.C. Section 664.

SO ORDERED.

Dated: February 13, 2009  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge